

**REMARKS**

**I. INTRODUCTION**

Claims 1, 3, 4, 6, and 8-10 have been amended. Claims 2 and 7 have been cancelled. Thus, claims 1, 3-6, and 8-10 remain pending in the present application. No new matter has been added. In light of the above amendments and the following remarks, Applicants respectfully submit that all presently pending claims are in condition for allowance.

**II. THE SPECIFICATION OBJECTION SHOULD BE WITHDRAWN**

The Examiner objects to the specification for failing to provide section headings. (See 10/18/07 Office Action p. 2). Applicants point out that the 37 CFR 1.77(b) states that “the specification of a utility application *should* include the following sections.” That is, the sections and section headings are optional. Applicants respectfully decline to add the section headings to the current application. In view of this being optional, Applicants respectfully request the withdrawal of this objection.

**III. THE 35 U.S.C. § 101 REJECTIONS SHOULD BE WITHDRAWN**

Claims 1-5 and 10 stand rejected under 35 U.S.C. § 101 for being directed towards non-statutory subject matter. Specifically, the Examiner asserts that a method/process claim must be tied to another statutory class of invention or transform underlying subject matter to a different state or thing. (See 2/25/09 Office Action, p. 3).

Initially, it should be noted that claim 1 is currently amended to include an image processing device. Thus, claim 1 is tied to another statutory class, namely, an image processing device. Furthermore, Applicants direct the Examiner’s attention to the recent Federal Circuit opinion *In re Bilski* (hereinafter “*Bilski*”). (See *In re Bilski*, Appeal No. 2007-1130, Fed. Cir. Oct. 30, 2008). Specifically, Applicants direct the Examiner’s attention to the following excerpt from the *Bilski* opinion:

We hold that the Applicants' process as claimed does not transform any article to a different state or thing. Purported transformations or manipulations simply of public or private legal obligations or relationships, business risks, or other such abstractions cannot meet the test because they are not physical objects or substances, *and they are not representative of physical objects or substances*. Applicants' process at most incorporates only such ineligible transformations. See Appellants' Br. at 11 ("[The claimed process] transforms the relationships between the commodity provider, the consumers and market participants..."). As discussed earlier, the process as claimed encompasses the exchange of only options, which are simply legal rights to purchase some commodity at a given price in a given time period. See J.A. at 86-87. The claim only refers to "transactions" involving the exchange of these legal rights at a "fixed rate corresponding to a risk position." See '892 application cl.1. **Thus, claim 1 does not involve the transformation of any physical object or substance, or an electronic signal representative of any physical object or substance.** Given its admitted failure to meet the machine implementation part of the test as well, the claim entirely fails the machine-or-transformation test and is not drawn to patent-eligible subject matter. (See *Bilski*). (Emphasis added).

While the Examiner states that the current position of the PTO is that patent-eligible subject matter must be tied to another statutory class or transform underlying subject matter to different state or thing, it is important to note the Federal Circuit's inclusion of "an electronic signal representative of any physical object or substance" within its description of patent-eligible subject matter. (See *Id.*). One skilled in the art would understand that a method performed by an image processing device for determining a volume of an object from three-dimensional volume data is an electronic signal representative of a physical object, namely, the object. Accordingly, the process of transforming this electronic signal representative of the volume of an object would clearly fit within the Federal Circuit's description of patent-eligible subject matter, as detailed in the *Bilski* opinion. Therefore, claim 1 is tied to a statutory class (e.g., image processing device) and performs a transformation of electronic signal representative of subject matter (e.g., volume of an object). Thus, Applicants respectfully submit that the rejection to claim 1 should be withdrawn. Claim 2 has been cancelled. As claims 3-5 depend from, and therefore include all the limitations of claim 1, it is hereby submitted that these claims are also allowable.

Claim 10 has been amended to recite a “[c]omputer program embodied on a computer-readable medium. Therefore, claim 10 is also tied to a statutory class (e.g., computer readable medium) and performs a transformation of electronic signal representative of subject matter (e.g., volume of an object). Thus, Applicants respectfully submit that the rejection to claim 1 should be withdrawn.

**II. THE 35 U.S.C. § 103(a) REJECTION SHOULD BE WITHDRAWN**

Claims 1, 5, 6, 9, and 10 stand rejected under 35 U.S.C. §103(a) for being obvious over Wyatt et al. (“Automatic Segmentation of the Colon for Virtual Colonoscopy”) in view of Vining et al. (U.S. Patent No. 6,366,800).


Independent claims 1, 6, and 10 have been amended to include the limitations of claim 7, which the Examiner has indicated is allowable. Therefore, Applicants respectfully submit that claims 1, 6, and 10 are allowable. Because claim 5 depends on claim 1 and claim 9 depends on claim 6, it is respectfully submitted that these claims are also allowable.

**CONCLUSION**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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By:   
Michael J. Marcin (Reg. No. 48,198)

Fay Kaplun & Marcin, LLP  
150 Broadway, Suite 702  
New York, New York 10038  
Tel.: (212) 619-6000  
Fax: (212) 619-0276